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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,721	10/15/2001	Patrick W. McManus	DEW0008.05.1	3314
27187	7590	05/19/2005	EXAMINER	
BAKER & DANIELS 205 W. JEFFERSON BOULEVARD SUITE 250 SOUTH BEND, IN 46601			CHAPMAN, JEANETTE E	
		ART UNIT		PAPER NUMBER
				3635

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/977,721	MCMANUS ET AL.	
	Examiner	Art Unit	
	Chapman E Jeanette	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 February 2005.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-54 is/are pending in the application.
 4a) Of the above claim(s) 2,6,7,10-17,19-26,31,32,39-44 and 48 is/are withdrawn from consideration.
 5) Claim(s) 1,3-5,8,9 and 18 is/are allowed.
 6) Claim(s) 27-30,33-38,45-47,49 and 52-54 is/are rejected.
 7) Claim(s) 50 and 51 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 27-30, 33-38, 45-47, 49, 52-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nebel in view of Dewald, JR. Nebel discloses a recreational having:

- A main room ;
- An expandable room 2;
- A drive mechanism 105 for moving the expandable room between extended and retracted positions;
- A sealing members 148/9, 150 and 135 positioned between the main and the expandable room;

Nebel lacks the latching mechanism mounted to the top edge of the main room and thus moving the relative position of one of the sealing members and sealing surface of the vehicle; the latching member includes a latch joined to an actuator by way of a link; the latch is configured to receive a bracket when the actuator is depressed. Dewald, Jr. et al discloses a latching mechanism 402 mounted to the top edge of the slide out room side wall and thus moving the relative position of one of the sealing members and sealing surface of the vehicle; the latching member includes a latch/extension 404

joined to an actuator 426 by way of a link 414; the latch is configured to receive a bracket 412 when the actuator is depressed. The actuator is coupled to the latch in a manner allowing the actuator to alter the position of the latch. One embodiment of the latch/lever of Dewald shows the same having a plurality of arms joined in a scissors configuration; see figures 32-37

The latch includes a camming surface engages the bracket . See elements 438-444.

The bracket 412 is mounted to the wall of the main living quarters. Hence the location of the bracket and lever is switch or the opposite of what is claimed. The claims recite the bracket on the slide out room and the latch on the side wall of the vehicle. Dewald, Jr. et al shows the opposite; however, one of ordinary skill in the art would have appreciated placing the bracket/lever and drive mechanism in any location enabling the slide out or expandable room to operate and function as intended. The actuator includes a flat plate or tab

The latch of Dewald, Jr. et al is obscured away from view by the side wall when viewed from a plane including the side wall; see figures 1-2. The spring 428 biases the latch away from the bracket.

The actuator is linked to the latch and moving the latch such that the camming surface is moved into position over said bracket as the distance separating the expandable room and the side wall decreases. See column 13, line 35-60. The expandable room contacts the actuator as the expandable room moves toward the side

wall. The link translating contact between the expandable room and the actuator into movement of the camming surface.

IN VIEW OF THE ABOVE, IT WOULD HAVE BEEN OBVIOUS TO ONE OF ORDINARY SKILL IN THE ART TO MODIFY NEBEL BY EMPLOYING THE LEVER MECHANISM OF DEWALD IN ORDER TO PREVENT ENTRY OF WATER AND OUTSIDE ELEMENTS AS TAUGHT BY THE SECONDARY REFERENCE. SEE COLUMN 1, LINES 45-65. DEWALD TEACHES A MEANS FOR DRAWING SAID EXPANDABLE ROOM TO THE SIDE WALL OF THE VEHICLE IN ORDER TO INCREASE THE EFFECTIVENESS OF THE SEAL; DEWALD TEACHES "THE MOVEMENT OF THE EXPANDABLE ROOM TO THE RETRACTED POSITION CAUSES SAID LATCH MECHANISM TO ASSIST THE DRIVE MECHANISM IN WITHDRAWING A PORTION OF THE EXPANDABLE ROOM. See the summary of the invention OF THE DEWALD REFERENCE. ALSO SEE ABOVE REJECTION FOR THE RECITED ELEMENTS TAUGHT BY DEWALD.

Claims 1,3-5,8,9,18 are allowable over the prior art of record.

Applicant's arguments have been considered but are not deemed persuasive. The examiner has stated "why" Dewald teaches the a latching mechanism. The examiner is not clear on applicant's statement of "the examiner failed to explain which reference teaches a latching mechanism capable of withdrawing the expandable room toward the latching mechanism toward the vehicle." The examiner cited Dewald as providing the above teaching of the latching mechansim. The examiner specifically provided/referenced the element numbers of Dewald corresponding to the elements of

the latching mechanism recited in the claims. The examiner has now given the motivation for combining the reference of Dewald with that of Nebel as taken from the teaching of Dewald. See the motivation statement presented in all caps. Which part of the rejection is applicant unclear. Why, in applicant's opinion, does the reference of Dewald not teach the latching mechanism capable of performing the argued/intended function? Applicant is very unclear in his arguments, specifically page 11, the first paragraph containing the essence of his arguments, making it difficult for the examiner to give a meaningful response

Claims 50-51 are objected to as depending upon a rejected base claim but would be considered as allowable if amended to include the base claim and any intervening claims.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E Jeanette whose telephone number is 703-308-1310. The examiner can normally be reached on Mon.-Fri, 8:30-6:00, every other fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jeanette Chapman
Primary Examiner